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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Promote Policy and Program Coordination and Integration in Electric Utility Resource Planning.	Rulemaking 04-04-003 (Filed April 1, 2004)
Order Instituting Rulemaking to Promote Consistency in Methodology and Input Assumptions in Commission Applications of Short-run and Long-run Avoided Costs, Including Pricing for Qualifying Facilities.	Rulemaking 04-04-025 (Filed April 22, 2004)

SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) REPLY COMMENTS ON PROPOSED DECISION OF ALJ HALLIGAN

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Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure, Southern California Edison Company (SCE) respectfully submits these reply comments on the Proposed Decision of Administrative Law Judge Halligan on Future Policy and Pricing for Qualifying Facilities (QFs), issued on April 24, 2007 (Proposed Decision).

I.

INTRODUCTION

As the opening comments of the three investor-owned utilities, The Utility Reform Network (TURN) and the Division of Ratepayer Advocates (DRA) all acknowledge, the Proposed Decision makes significant progress in modernizing QF pricing. The Proposed Decision appropriately adopts a market-based methodology, the Market Index Formula (MIF), as the best measure of the short-run avoided cost (SRAC) of energy, properly rejects the antiquated

QFs-out methodologies advocated by the QF parties as "neither reasonable nor practical[,]"[1] and properly rejects the QF parties' unlawful proposals for mandatory fixed-price contracts.[2] The opening comments of the three investor-owned utilities, TURN and DRA consistently identify the same three errors in the Proposed Decision's QF energy and capacity pricing methodologies, which result in prices that are above avoided cost:

- Failure to deduct variable operations and maintenance (O&M) from the power price in the MIF, resulting in a double-payment for variable O&M;
- Failure to properly deduct ancillary services value from the "as-available" capacity price; and
- Failure to deduct energy-related capital costs (sometimes referred to as inframarginal rents) and residual value from the firm capacity price.

As set forth in the foregoing comments, the errors in the QF energy and capacity pricing methodologies are easily correctable, and the corrections can be made based on the evidence of record in this proceeding.

It is critical that these corrections be made in order to avoid repeating mistakes of the past. As recognized by the Proposed Decision and discussed in SCE's opening comments, standard offer contracts are not required to implement PURPA's mandatory purchase obligation. To the extent, however, that the Commission concludes that standard offer contracts should be made available to QFs going forward, notwithstanding the risk and inherent inequity in imposing new standard offer contract obligations only on the investor-owned utilities and no other load-serving entities, the Commission should allocate the benefits and costs of such obligations to all customers and ensure that it gets the price right.

The errors noted above, while ostensibly technical, will have real dollar impacts for SCE's customers for years to come. Indeed, *considering only those QFs with contracts expiring in 2007*, giving ten-year firm standard offer contracts to such QFs without appropriate adjustments to the firm capacity price, as explained in the opening comments of the utilities,

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[1] *See* Proposed Decision at 50-51. Moreover, the Proposed Decision correctly identifies CCC's "elasticity adder" as a form of QFs-out methodology that is designed "to adjust the forward prices to reflect the price increase if the 'aggregate' amount of QF energy production on the utility's system is withheld." Proposed Decision at 60.

[2] *See id.* at 127-28.

TURN and DRA, will produce over $100 million (NPV 2007) in overpayments over the ten-year term of the contracts. And this assumes that no new QFs subscribe to this offer.

Failure to make the appropriate adjustments to the SRAC energy formula and "as-available" capacity price will also produce significant overpayments, as well as potential unintended consequences. For example, it is not inconceivable that QFs capable of providing firm capacity will find the "as-available" capacity price without attendant performance requirements sufficiently attractive such that they will elect not to provide firm capacity at all. The potential for significant overpayments is an inherent risk when standard offer contracts are combined with administratively-determined capacity pricing, as amply demonstrated by the current above-market capacity payments enjoyed by most QFs. This risk can be alleviated by abandoning standard offers as a vehicle for implementing PURPA and recognizing that there are meaningful opportunities for QFs to sell into today's energy markets. SCE continues to advocate that the Commission reject the standard offer approach and find a market based approach for implementing PURPA that is more consistent with the overall direction of the Proposed Decision and state policy generally.

Not surprisingly, the QF parties' opening comments have a consistent theme: the Proposed Decision produces prices that are too low. These arguments are without merit. The opening comments of the QF parties "merely reargue positions taken in briefs"[3] or introduce new analysis that is both factually flawed and has no basis in the record, each according to its individual self-interest. For example, the opening comments of the Cogeneration Association of California and the Energy Producers and Users Coalition (CAC/EPUC) introduce material that is outside of the record in an effort to increase the firm capacity price and impose mandatory fixed-price contracts but do not take issue with the Proposed Decision's adoption of the MIF or rejection of QFs-out. In contrast, the opening comments of the California Cogeneration Council (CCC) seek to undermine the MIF and impose a QFs-out elasticity adder but do not take issue with the Proposed Decision's rejection of mandatory fixed-price contracts. Although it is not possible for SCE to respond to all of the issues raised in the QF parties opening comments in this reply, the Commission should recognize the QF parties' contradictory comments as self-serving

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[3] *See* Rule 14.3(c) of the Commission's Rules of Practice and Procedure.

and transparent attempts to gain above-market payments and set-asides at ratepayer expense and in violation of PURPA's avoided cost limitation.

II.

THE QF PARTIES' CRITICISMS OF THE HEAT RATE COLLARS ARE BASELESS AND SHOULD BE REJECTED

Both CAC/EPUC and CCC criticize the 5,864 Btu/kWh and 9,864 Btu/kWh heat rate "collars" adopted by the Proposed Decision. CCC goes so far as to introduce new analysis in support of its claim that the heat rate collars "deflate" NP-15 and SP-15 prices by 4%. CAC/EPUC and CCC's hostile attacks on the collars and SCE's methodology for deriving the collars are completely unwarranted. The heat rate collars were developed for the purpose of muting spot market volatility and triggering "expedited review of the methodology in the event of persistent and significant changes."[4] Furthermore, the collars were developed based on a statistical analysis of historical data, the details of which are fully explained in SCE's opening testimony.[5]

CAC/EPUC and CCC's analyses criticizing the collars have no basis in the record and are factually flawed. CCC's claim that the heat rate collars "deflate" NP-15 and SP-15 prices by 4% ignores the fact that the Proposed Decision's MIF fails to deduct variable O&M from the power price. In addition to resulting in a double-payment for variable O&M, as discussed in SCE's opening comments, this error inflates the resulting heat rates by approximately 300-400 Btu/kWh and results in additional ceiling hits. Deducting variable O&M from the power price in the market heat rate calculation reduces the differential to 2.9%.

In addition, CCC examined only the time-period from April 2006 to March 2007 to reach its conclusions on the heat rate collars. Over the longer period of August 2002 to March 2007, the difference between the uncollared and collared heat rates (assuming variable O&M is properly deducted from the power price) would have been only 0.7%, with four ceiling hits and four floor hits.

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[4] SCE Opening Testimony, Ex. 1 at 67.
[5] *See id.* at 67-70.

CAC/EPUC's argument that the heat rate ceiling should be based on a combustion turbine heat rate and the heat rate floor should be based on combined cycle gas turbine heat rate is also devoid of merit. CAC/EPUC's floor proposal mischaracterizes the full range of resources that may be on the margin. Although combined cycle gas turbines will be on the margin for many hours of the year, during certain lower load hours, baseload resources will be on the margin. Using a combined cycle gas turbine as the floor would improperly result in paying QFs based on a combined cycle gas turbine price at a time when coal, nuclear or must-run hydro is on the margin. Therefore, the Commission should reject both CCC and CAC/EPUC's criticisms of the heat rate collars as factually flawed and lacking any basis in the record.

III.

THE QF PARTIES ATTEMPTS TO INFLATE THE "AS-AVAILABLE" CAPACITY PRICE SHOULD BE REJECTED

Both CAC/EPUC and CCC attempt to inflate the "as-available" capacity price based on flawed analysis that lacks any basis in the record. With respect to "as-available" capacity, CCC makes an untenable argument in favor of levelized nominal valuation that is properly rejected by the Proposed Decision.[6] CAC/EPUC argues that the "as-available" capacity value adopted in the Proposed Decision should not be reduced by ancillary service revenues associated with a combustion turbine's ability to provide non-spinning reserves when it is not running because QF pricing is premised on a QF running all the time.[7] CAC/EPUC has it exactly backwards--it is precisely because a combustion turbine does not run all the time that it can receive non-spin revenues, something that QFs normally do not provide.[8] Without the reduction for ancillary service revenues, the as-available capacity price would compensate QFs for something they do not provide and exceed avoided cost. Therefore, in calculating the "as-available" capacity price, the combustion turbine fixed charge should be reduced by the full ancillary services value calculated by SDG&E.

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6 *See* Proposed Decision at 89-90.

7 *See* CAC/EPUC Opening Comments at 23.

8 At times that the QF is running while a combustion turbine would not run, the QF is able to earn operating profits by selling energy at a price which exceeds the QFs running cost.

IV.

THE QF PARTIES ATTEMPTS TO INFLATE THE FIRM CAPACITY PRICE SHOULD BE REJECTED

CAC/EPUC and CCC also attempt to inflate the firm capacity price based on defective analysis that refers to material outside of the record in this proceeding. Both CAC/EPUC and CCC purport to calculate the fixed component of the MPR for the first time in opening comments. Neither of these calculations is part of the record, and neither of these calculations apply the real economic carrying charge methodology that is adopted by the Proposed Decision to calculate the fixed charge for a combustion turbine.

Moreover, CAC/EPUC and CCC arrive at different results. CCC claims the fixed component of the MPR is $118/kW-yr,[9] while CAC/EPUC claims the fixed component of the MPR is $157/kW-yr.[10] Furthermore, both CAC/EPUC and CCC fail to deduct energy-related capital costs or residual value from these figures. As discussed in SCE's opening comments, as a result of its relatively low heat rate, a combined-cycle gas turbine will run "in-the-money" and receive additional energy-related operating profits in many hours of the year.[11] Those additional energy-related operating profits, known as energy-related capital costs or inframarginal rents, offset a portion of the combined-cycle gas turbine's fixed costs and must be deducted from the annualized capital cost to avoid over-payment for capacity.[12] As QF Parties witness Cavicchi explained during cross-examination, "there's some contribution of fixed costs that can be obtained by an appropriately efficient resource through the energy markets."[13]

Mr. Cavicchi discussed a California Independent System Operator (CAISO) Department of Market Analysis (DMA) report that quantified the energy-related capital costs associated with a combined-cycle gas turbine.[14] The DMA report found that a new combined-cycle gas turbine would have earned $55/kW-yr of energy-related revenues for selling its output in SP-15 during

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9 *See* CCC Opening Comments at 24.
10 *See* CAC/EPUC Opening Comments at 22.
11 *See* SCE Opening Comments at 14; SCE Rebuttal Testimony, Ex. 2 at 73, 79.
12 *See* SCE Opening Comments at 14; SCE Rebuttal Testimony, Ex. 2 at 73, 79.
13 QF/Cavicchi, Tr. Vol. 22 at 3231:5-7.
14 *See id.* at 3228:17-3229:3, 3231:8-17; *see also* Ex. 48 at 2-27–2-30 (California Independent System Operator 2004 Annual Report on Market Issues and Performance); SCE Opening Comments at 14-16.

2004.[15] The DMA's 2007 report, which contains more recent values, is not in the record in this proceeding. In any event, CAC/EPUC and CCC's firm capacity prices fail to take energy-related capital costs into account.

CAC/EPUC and CCC also fail to make any deduction for residual value. The firm capacity prices proposed by CAC/EPUC and CCC appear to be based on a 20-year term for capital recovery. However, as SCE explained in its opening comments, annualizing the capital cost of a unit over a 20-year term, instead of a 30-year economic/operating life, overstates capacity value by approximately $10/kW-yr.[16] Thus, in addition to having no basis in the record, CAC/EPUC and CCC's inflated and inconsistent firm capacity prices suffer from a number of methodological flaws. They should be rejected.

V.

CALWEA'S SUGGESTED MODIFICATIONS TO THE PROPOSED DECISION SHOULD BE REJECTED

The California Wind Energy Association (CalWEA) states that "a new interconnection study and arrangement should not be required for a QF with an existing interconnection arrangement so long as the interconnected QF's output will not change substantially after termination of the QF contract."[17] CalWEA also states that FERC will exercise jurisdiction over a generator's interconnection to a utility's distribution facility when the facility is included in the public utility's open access tariff and the generator will be making FERC-jurisdictional wholesale sales of electric energy.[18] CalWEA's assertions are an incomplete statement of the FERC-approved interconnection procedures that are in place, and CalWEA's suggested modifications to the Proposed Decision should be rejected.

Under FERC-approved interconnection procedures and the CAISO Tariff, QFs with existing interconnections who will make sales on the wholesale market (and no longer sell all of their generation to an investor-owned utility) must execute a new interconnection agreement regardless of whether or not the output and electrical characteristics of the facility remain the

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15 *See* Ex. 48 at 2-27–2-30.
16 *See* SCE Opening Comments at 17-18.
17 CalWEA Opening Comments at 3.
18 *See id.*

same.[19] Such QFs must also submit an affidavit to the CAISO and the interconnecting utility (Participating Transmission Owner or PTO) containing a representation "that the total capability and electrical characteristics of the qualifying facility will remain substantially unchanged" or, if there is any change to the total capability and electrical characteristics, describing any such changes.[20] If the CAISO and PTO agree that the QF will remain substantially unchanged, then the QF will not be required to submit an interconnection request and will not be placed in the interconnection queue (but still will be required to execute a new interconnection agreement).[21] If, however, the output or characteristics of the QF have changed, then the QF must submit an interconnection request.[22]

CalWEA's proposed finding of fact and conclusion of law are not consistent with the foregoing rules. CalWEA's request that existing QFs be allowed to retain their existing interconnection arrangements contradicts § 25 of the CAISO Tariff, and CalWEA's proposed conclusion of law attempts to impose a standard for new interconnection studies that is inconsistent with the standard set forth in FERC's rules and the CAISO Tariff. Therefore, CalWEA's suggested modifications to the Proposed Decision should be rejected.

VI.

CAC/EPUC'S PROPOSED MODIFICATIONS TO THE PROCEDURE FOR IMPLEMENTING STANDARD OFFER CONTRACTS ARE UNREASONABLE AND SHOULD BE REJECTED

CAC/EPUC's opening comments propose various changes to the Proposed Decision's procedure for implementing standard offer contracts. Among other things, CAC/EPUC proposes that "[a]ll parties may file proposed standard offer contract forms no later than June 7, 2007, with reply comments on the proposals no later than June 21, 2007."[23] CAC/EPUC further proposes that any disputes be resolved within 21 days by Assigned Commissioner's ruling.

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19 *See* CAISO Tariff § 25.
20 *Id.* at § 25.1.2.
21 *Id.* at § 25.1.2.1.
22 *Id.* at § 25.1.2.2.
23 CAC/EPUC Opening Comments at 4.

CAC/EPUC proposal is patently unreasonable and should be rejected. CAC/EPUC's proposal provides inadequate time to prepare complex contracts that will differ materially from prior forms of standard offer contract, which are now almost 30 years old. The Proposed Decision is on the agenda for the Commission's June 7, 2007 meeting. Assuming the decision is approved on June 7, 2007, the final text of the decision will not be available until June 8 at the earliest. It is grossly unreasonable to demand that proposed standard offer contracts be filed before a Commission decision is even issued.

Assuming the Commission's decision herein adopts standard offer contracts, the Proposed Decision's procedure for implementing such contracts, including the 45-day period for the utilities to file proposed contracts and the 21-day comment period, should be maintained to provide parties with a full and fair opportunity to be heard with respect to the terms and conditions of any standard offer contracts that are adopted. Furthermore, it is inappropriate to assume at this time that any disputes as to contract terms can be resolved by Assigned Commissioner's ruling.

VII.

CONCLUSION

For the foregoing reasons, SCE respectfully requests that the Commission adopt the Proposed Decision with the modifications described in SCE's opening comments.

Respectfully submitted,

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June 4, 2007

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of SOUTHERN CALIFORNIA EDISON COMPANY'S (U 338-E) REPLY COMMENTS ON PROPOSED DECISION OF ALJ HALLIGAN on all parties identified on the attached service list(s). Service was effected by one or more means indicated below:

Transmitting the copies via e-mail to all parties who have provided an e-mail address. First class mail will be used if electronic service cannot be effectuated.

Executed this **4th day of June, 2007**, at Rosemead, California.

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SAN FRANCISCO, CA 94105
R.04-04-025

JOY C. YAMAGATA
SAN DIEGO GAS & ELECTRIC/SOCALGAS
8330 CENTURY PARK COURT
SAN DIEGO, CA 91910
R.04-04-025

Amy C Yip-Kikugawa
CALIF PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
ROOM 5135
SAN FRANCISCO, CA 94102-3214
R.04-04-025

CARLO ZORZOLI
ENEL NORTH AMERICA, INC.
1 TECH DRIVE, SUITE 220
ANDOVER, MA 1810
R.04-04-025

CALIFORNIA ENERGY MARKETS
517-B POTRERO AVENUE
SAN FRANCISCO, CA 94110
R.04-04-025

LEGAL AND REGULATORY DEPARTMENT
CALIFORNIA ISO
151 BLUE RAVINE ROAD
FOLSOM, CA 95630
R.04-04-025

MRW & ASSOCIATES, INC.
1814 FRANKLIN STREET, SUITE 720
OAKLAND, CA 94612
R.04-04-025